CANCELLED

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Misc. Civil Case No. 180 of 2005 **SINGLE BENCH**

Applicant Humendra Kumar Chandrakar

(PETITIONER)

VERSUS

(Non-applicant) State of Chhattisgarh & Anr.

RESPONDENTS

APPLICATION FOR RECALL of ORDER DATED 9-3-2005 PASSED IN W.P. NO.574/2005 AND RESTORATION OF WRIT PETITON N0 574/2005

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.C.C. 180 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध) 30

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11.12.2006

Shri Ashok Das Vaishnav, counsel for the applicant.

Shri G.K.Beriwal, Dy. Advocate General for the State.

Heard.

Shri Vaishnav submits that this M.C.C. is filed for recalling the order dated 9.3.2005, passed in W.P. No. 574/2005. He submits that the said writ petition No. 574/2005 relates to the promotion, whereas, the O.A.No.678/1998 was relating to the stay of fresh recruitment. His submission is that on 9.3.2005, by mistake, it could not be mentioned that this petition is a petition of different nature than the original application No. 678/1998, which has been renumbered as W.P.(s) No. 2626/2005. He submits that in view of the above, this M.C.C. may be disposed of and a liberty may be granted to the applicant to file a fresh writ petition in relation to the subject matter of his promotion, otherwise, in view of this order, passed in W.P.No. 574/2005, there would be many technical difficulties in filing a subsequent petition for promotion.

In view of all this, he prays for withdrawal of this M.C.C . with a liberty to file another petition pertaining to the promotion of the applicant.

In the opinion of this Court, there is no necessity of granting such a liberty to the applicant because so far as the matter of promotion is concerned, it is a recurring cause of action and even a subsequent petition pertaining to the promotion is maintainable in the changed circumstances. Moreover, when the petition itself was

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

not dismissed on merits and there is no order on merits against the applicant, the order passed in the earlier W.P.No.574/2005 is not operative as *res judicata.*

The petition has no merit. The same is dismissed.

Sd/-
Sunil Kumar Sinha
Judge

Seemita